



PATENT
Customer No. 22,852
Attorney Docket No. 07883.0004-02

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
)
Peter J. WILK) Group Art Unit: 3761
)
Application No.: 09/534,038) Examiner: BIANCO, PATRICIA
)
Filed: March 24, 2000)
)
For: METHOD OF PROVIDING)
DIRECT BLOOD FLOW) Confirmation No.: 2278
BETWEEN A HEART CHAMBER)
AND A CORONARY VESSEL)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

04/26/2006 JADD01 00000019 09534038
01 FC:2814

65.00 OP

TERMINAL DISCLAIMER

Petitioner ("Assignee") Percardia, Inc., duly organized under the laws of the State of Delaware and having its principal place of business at 10 Al Paul Lane, Suite 202, Merrimack, New Hampshire 03054, through its attorneys, represents that it is the only assignee of the entire right, title, and interest in and to the above-identified application, U.S. Patent Application No. 09/534,038, filed March 24, 2000, for METHOD OF PROVIDING DIRECT BLOOD FLOW BETWEEN A HEART CHAMBER AND A CORONARY VESSEL, as indicated by an Assignment duly recorded in the United States Patent and Trademark Office at Reel 011050, Frame 0444, and is and at all times was the only assignee of U.S. Patent Application No. 10/681,323, filed October 9, 2003, for DELIVERY OF LEFT VENTRICULAR CONDUITS TO CORONARY

VESSELS, also as indicated by the Assignment duly recorded in the United States Patent and Trademark Office at Reel 011050, Frame 0444.

To obviate a double patenting rejection, Assignee hereby disclaims, under the provisions of 37 C.F.R. § 1.321, the terminal part of any patent granted on the above-identified U.S. Patent Application No. 09/534,038, which would extend beyond the expiration date of any patent granted on U.S. Patent Application No. 10/681,323 and hereby agrees that any patent so granted on the above-identified U.S. Patent Application No. 09/534,038 shall be enforceable only for and during such period that the legal title to said patent shall be the same as the legal title to any patent granted on U.S. Patent Application No. 10/681,323. This agreement runs with any patent granted on the above-identified U.S. Patent Application No. 09/534,038 and is binding upon the grantee, its successors, or assigns.

In making the above disclaimer, Assignee does not disclaim the terminal part of any patent granted on the above-identified U.S. Patent Application No. 09/534,038 that would extend beyond the expiration date of the full statutory term, as defined in 35 U.S.C. §§ 154 to 156 and 173, of any patent granted on the above-identified U.S. Patent Application No. 10/681,323, as shortened by any terminal disclaimer, in the event that any patent granted on the above-identified U.S. Patent Application No. 10/681,323 expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or in part, is terminally disclaimed under 37 C.F.R. § 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term, as presently shortened by any terminal disclaimer.

In accordance with the fee schedule set forth in 37 C.F.R. § 1.20(d), the required small-entity fee of \$65.00 is being filed with this Terminal Disclaimer.

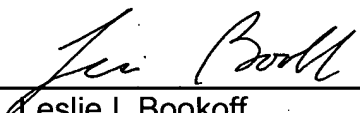
If a check for the required fee is not filed concurrently herewith or if there are any additional fees due in connection with the filing of this Terminal Disclaimer, please charge the fees to our Deposit Account No. 06-0916.

The undersigned is an attorney of record.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: April 25, 2006

By: 
Leslie I. Bookoff
Reg. No. 38,084